

GOVERNMENT OF TELANGANA

ABSTRACT

Tribal Welfare Department – Telangana State – Adilabad District – Issue of Agency Area Local ST Certificates under GO Ms.No.24 of dt.12.6.2018 of TW (LTR.1) Department – Declaration of Rathod Shilpa D/o Noorsingh, the Collector & District Magistrate, Adilabad District vide Procgs.Rc.No.C3/2596/2019-15, dated 31.01.2020- Appeal filed by Rathod Shilpa D/o Noorsingh R/o Dhanora(K) village of Indervelly Mandal of Adilabad District – Allowed – Orders – Issued.

TRIBAL WELFARE (LTR) DEPARTMENT

G.O.Ms.No. 11

Dated: 20-01-2021
Read the following:-

1. GO Ms.No.24, TW (LTR.1) Department, dated 12.6.2018.
2. Procgs.Rc.No. C3/2596/2019-15, dated 31.01.2020 of Collector & District Magistrate, Adilabad District
3. Appeal petition filed by Rathod Shilpa D/o Noorsingh R/o Dhanora(K) village of Indervelly Mandal of Adilabad District, dated 07.03.2020.
4. Govt.Memo.No.435/TW.LTR/2020, dated 02.06.2020
5. Lr.Rc.No.D5/309/2018, dated: 30.07.2020 of PO, ITDA, Utnoor, Adilabad District.
6. Notice No.435/TW.LTR/2020, dt. 28.08.2020.

ORDER

In the reference 1st read above, Government have issued detailed guidelines for issue of Agency Area Local Scheduled Tribe Certificates to the local STs living in the Scheduled Areas and procedure to be adopted for cancellation of such certificates in case of fake/bogus claims.

2. In pursuance of the said Government orders under reference 1st read above, the Collector & District Magistrate, Adilabad District vide her orders in the reference 2nd cited, has issued orders declaring that the appellant Rathod Shilpa D/o Noorsingh R/o Dhanora(K) village of Indervelly Mandal of Adilabad District is not a Local Schedule Tribe as per definition of G.O.Ms.No.24, TW (LTR.1) Department, dt.12.6.2018 basing on the following findings of the Scrutiny Committee:

- The Tahsildar, Indervelly has issued the LST (Local Scheduled Tribes) Certificate vide No.C/432/2017, dt.11.10.2019 without following the rules prescribed in GO Ms.No.24, TW (LTR.1) Department, dated 12.06.2018.
- On verification of the documents produced by the applicant the candidate has failed to prove the continuous residence in agency area prior to 1950.
- The candidate has failed to furnish the documents about continuous residing in Agency area from 1950.

3. Aggrieved by the above orders of the Collector & District Magistrate, Adilabad District, the Appellant Rathod Shilpa D/o Noorsingh has filed appeal petition before the Government through her counsel M/s. P.V.Ramana, ER

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Savithri, P.Lakshmi Priya Advocates, Hyderabad, with the following grounds:

- The recommendations of the DLSC were not communicated or not made available before passing orders for cancellation by the District Collector.
- It is settled principle of law that any material obtained behind back which goes into decision making process is to be treated as adverse material and the same is bound to be communicated before acting upon the said material. In the instant case, the recommendations of DLSC at any point of time communicated and thereby the impugned orders are liable to be declared as illegal, arbitrary and violate Articles 14, 16 and 21 of the Constitution of India.
- After receiving recommendations from DLSC, the Dist. Collector issued Show Cause Notice dt.25.1.2020 proposing cancellation of Local ST Certificate and directed the Appeal petitioner to submit objections 7 days time was granted. Even without verifying the SCN was communicated and passing orders by 31.1.2020 is in utter violation of Article 14 and 21 of Constitution of India. On the said ground also the impugned orders are to be declared as illegal.
- The DLSC recommendations dt.12.6.2018 is relied upon by the Dist. Collector for cancelation of Local ST certificate. It is submitted that though the criteria provided in the said G.O. for granting Local ST any acceptable document as evidence is sufficient for the petitioner's purpose, the said item was totally ignored and by that impugned are liable to be quashed.
- It is submitted that:
 - Electoral Roll since 1950 is not available even in the MRO office.
 - Birth and Death Registration since 1950 were not maintained in the Scheduled Area of Adilabad.
 - Sale Deed document could not be produced since the petitioner's ancestors did not possess any agricultural land.
 - Since the grandfather and great grandfathers are illiterates, there is no school record.
 - The last requirement "any other acceptable document as evidence" is to be taken into account. It is only based on the said criteria the letters issued by the Sarpanch and elders of the village is to be considered for treating the petitioner, father of the petitioner and grandfather of the petitioner as local STs.
 - Even the statement of the elders of the village recorded on 2-10-2018 is also the basis for issuing local ST certificates during 2015-2018. In addition to that, the Voter List of 1965 provides the ancestors names of the petitioner.
 - Voter List of 1970, 1971 and 1995 establishes the names of father of the petitioner, grandfather and ancestors, for their continuous residence in Agency area, therefore, it is not the case that without there being any evidence the local ST certificates were issued in 2015 and 2018. Therefore, not considering the

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said issue either by the Dist. Collector or by the Screening Committee is fatal to the entire proceedings thereby the impugned orders are to be declared as illegal.

- When the petitioner's father categorically submits that their fore-fathers do not possess any agricultural land, the question of insisting agricultural land or purchase of agricultural land etc. is totally unreasonable and illegal. In such a situation, available records in this regard i.e. statement made by the Sarpanch of the village and elders of the village are bound to be considered based on the names found in the voter list of 1965 and 1971 and 1975 etc.
- It is only by not considering the evidence of genealogy tree produced by the petitioner's history, the Dist. Collector passed orders declaring the petitioner as non local ST and thereby grave injustice was done to the petitioner and accordingly the impugned orders are to be declared as illegal and arbitrary.

4. The Appeal petitioner viz., Rathod Shilpa D/o Noorsingh, aged 28 years, R/o Dhanora (K) village, Indervelli Mandal, Adilabad has further submitted the following facts in the Affidavit annexed to the Petition:

- She stated that she belongs to ST (Lambada) community and is a permanent resident of Dhanora (K) village, Indervelli Mandal, Adilabad District.
- She has been selected for the Teacher post in the TRT Recruitment of 2017.
- The Tahsildar, Indervelly issued Local Agency Certificate on 11.8.2015 and Local ST Certificate on 11.10.2018 declaring that her parents/grandparents continuously residing at Dhanora (K) village, Indervelly Mandal of Adilabad District since 26.1.1950.
- Before issuing the above two certificates, local enquiries were conducted by the Revenue authorities and it is only after satisfying about her ancestors and their residence, the said Certificates were issued which are valid in the eye of law.
- After her selection to the post of Teacher in 2017 Recruitment Notification for Adilabad, her local ST certificates were directed to be verified keeping in view of the orders of the Hon'ble High Court of Telangana in WP No.31426/2018 and 32413/2018.
- Accordingly, the Appointing Authority forwarded list of selected candidates to the District Collector and the District Collector placed the matter before the Committee constituted under G.O.Ms.No.24, dated 12.6.2018.
- When she was asked to appear before the Committee on 16.11.2019, she appeared before the Committee and submitted Voter List for the year 1965, Polling Station details of Ginnera village of Boath Constituency. In the said Voter list S.No.223 to 227 the names of Kapriya S/o Meghya and his wife Smt.Ganju Bhai W/o Kapria and other family members' names were recorded.

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- She has also produced Voter List of 1975 Ginnera Village of Boath Constituency. At S.No.325 the name of Kapria Rathod S/o Yogya was recorded.
- It is only on the ground that she failed to produce documents to prove continuous residence in the Agency Area prior to 1950, the Committee concluded that she has not resided from 26.1.1950.
- Based on the conclusions of the Committee, the District Collector declared that she is not a Local Candidate as per the definition in GO Ms.No.24, TW Department (LTR) dt.12.6.2018. Before that Show Cause Notice dt.25.1.2020 was issued for submitting explanation but since there is no sufficient time granted , she could not submit explanation.
- In the Show Cause Notice, it was stated that District Level Scrutiny Committee recommended for "cancellation of Local ST Certificate". It was also stated that the Project Officer, ITDA recommended to cancel the Agency Area Certificate vide Rc.No.C/755/2019, dt.20.10.2019. While cancelling the earlier Local ST Certificate, it was declared that she failed to produce sufficient evidence that she is residing in Scheduled Area since 26.1.1950 as required under G.O.Ms.No.24 TW (LTR) Dept. dt.12.6.2018.
- The Circular Memo dt.25.2.2015 provides guidance for issuing Local S.T. Certificate. As per the same, the requirements are:
 - i) Birth and Death Certificate since 26.1.1950.
 - ii) Electoral Card since 26.1.1950.
 - iii) Sale Deed documents for agricultural land since 26.1.1950.
 - iv) School Record
 - v) Any other acceptable document as evidence.

Further more, the Tahsildar was directed to conduct detailed local enquiry before issuing Local ST certificate.

- In this, she submitted that from 26.1.1950 to 1965 there is no record regarding birth and death or land. Her ancestors i.e. grandfather and great grandfather used to do coolie work and in between 26.1.1950 to 1965 they continued as coolies and they lived at Ginnera Thanda of Indervelly Mandal. They have no Pakka House to live and they used to live in a small thatched house. They have no landed property at any time of time. She stated that during the year 1965 in the Voter List, the names of her grandfather and great grandfather were shown but thereafter in all subsequent voter lists the names of her father etc., were found. Her father studied upto 5th class and by doing coolie works he supported her education.
- Before settling her ancestors at Dhanora (K) village, they used to reside at Ginnera Thanda. Both are scheduled areas. Her father made an application on 21.11.2019 to RDO requesting for providing any proof prior to 1965 of Ginnera village. Her father is the son of Jemla. His name found in the Voter List of 1971. Similarly, the name of her father found in the Voter List of 1995 and her father's

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brother name found in the year 1965 Voter List.

- She has provided Genealogy Tree before Dist. Level Screening Committee and copy of the same is filed in the material papers. As per the same:
 - Late Sri Rathod Magya is her grandfather.
 - Rathod Kapooria and Rathod Jemla are two sons.
 - Rathod Jemla got 5 sons viz., 1st son Rathod Noorsingh is her father.
 - The said Genealogy Tree was certified by the Ginnera Gram Panchayat Sarpanch which is the basis for issuing Local ST Certificate in the year 2015. The Sarpanch and other villagers of Ginnera Gram Panchayat sent a letter to the Tahsildar for issuing Local ST Certificate.
 - The said letter furnished by Gram Panchayat Ginnera along with villagers and elders is sufficient evidence as per 2015 circular and it is the basis for issuing 20915, 2018 Local ST Certificate.
 - On 2.10.2018 statement was recorded by Girdhawar, Indervelly of 4 persons stating that her grandfather and great grandfather were residing from 1950 in Ginnera Thanda and they used to attend agricultural coolie works and in the year 1981 they came to Dhanora (K) village and they were not having any land. It is only based on the above documents, two Local ST Certificates were issued.
- In spite of placing all these materials, the Screening Committee recommended for treating her earlier certificate is not correct and accordingly made "recommendation for Cancellation of her Local ST Certificate". The orders of the District Collector for cancelling her Local ST Certificate vide Proceedings dt.31.1.2020 are illegal and contrary to criteria provided under G.O.Ms.No.24 TW (LTR) Dept. dt.12.6.2018 and in utter violation of Articles 14, 16 and 21 of Constitution of India.
- It is settled principle of law that any adverse material which goes into decision making process and affects the rights of any individual has to be made available to the persons affected.
- Unless this Appeal Authority interferes and protects her interests, she will suffer irreparable losses and damages and accordingly this Appeal is being filed.
- In the aforesaid circumstances, she prayed that the Appellate Authority be pleased to call for the records relating to and in connection with the orders passed by the Dist. Collector and District Magistrate, Adilabad, in Proceedings No.C3/2596/2019-15 dt.31.1.2020 cancelling Local ST Certificate issued in favour of the Appeal Petitioner and to quash the said order as illegal, arbitrary and contrary to provisions of AP (TS) SC, ST, BC Regulation of Issue of Community Certificate Act of 1993 and G.O.Ms.No.24, TW (LTR) Department, dt12.6.2018 and consequently declare that the Local ST

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Certificates issued in favour of the Appeal Petitioner are valid for all purposes including for employment as Teacher and to pass such other order or orders as this Appellate Authority may deem fit and proper in the circumstances of the case.

- It is, therefore, just and necessary that this Appellate Authority be pleased to suspend the operation of the orders passed by the District Collector and District Magistrate, Adilabad, in Proceedings No.B4/1362/2018 dt.16.10.2018 and Notification in Rc.No.C3/2596/2019-15 dt.31.1.2020 to enable the Appeal Petitioner for her appointment to the post of Teacher as per her merit pending disposal of the Appeal and to pass such other order or orders as this Appellate Authority may deem fit and proper in the circumstances of the case.

5. The Appeal petitioner viz., Rathod Shilpa D/o Noorsingh have submitted the following documents along with the Appeal petition:

- i) Copy of application dt.21.11.2019 made by Sri Rathod Noorsingh i.e. father of appellant addressed to the RDO Utnoor requesting to provide proofs of Ginnera village, Indervelly Mandal, Adilabad District, if any before 1965 for Area Agency Certificate.
- ii) Copy of representation dt.27.2.2020 of Noorsingh addressed to the Director, Telangana State Archives & Research Institute, Tarnaka, Hyderabad requesting to provide certified copy of Voter Lists of 1975, 1983 of Ginnera village and 1983 to 1995 of Dhanora (K) village Polling Booth.
- iii) As per Family Tree duly attested by the Sarpanch, GP Ginnera and witnessed by five village elders.
 - Late Sri Rathod Megya S/o Balu is great grandfather of appellant. He has two sons viz., 1) Rathod Kapurya and 2) late Rathod Jemla (grandfather of appellant).
 - Late Sri Rathod Jemla has five sons viz., 1) Rathod Noorsingh (father of appellant) 2) Rathod Kishan 3) Rathod Ramesh 4) Ganesh and 5) Dinesh.
 - Rathod Noorsingh i.e. father of appellant has one daughter and two sons viz., 1) Shilpa (daughter and appellant) 2) Raju (son) and 3) Sandeep (son).
- iv) Voter list for the year 1965 – village: Ginnera – Taluq: Utnoor – Dist. Adilabad – show names of Kapurya S/o Megya (brother of grandfather of appellant i.e. Jemla) and his wife Gangubai.
- v) Voter list for the year 1971 (Boath Assembly Constituency) – village: Ginnera – Firka: Indervelly – Taluq: Utnoor – Dist. Adilabad – show names of Kapurya S/o Megya, his wife Gangubai W/o Kapurya, Jemla S/o Megya under H.No.3-65.
- vi) Voter list for the year 1977 (241 Boath Assembly Constituency) – village: Ginnera – Firka: Indervelly – Taluq: Utnoor – Dist. Adilabad – show names of 1) Rathod Kapurya S/o Megya (brother of

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grandfather of appellant) at Sl.No.325, his wife Gangubai at Sl.No.326, Rathod Jemla S/o Megya (grandfather of appellant) at Sl.No.327 under H.No.3-69.

- vii) Voter list for the year 1995 (241 Boath Assembly Constituency) – village: Dhanora (K) – Mandal: Indervelly – Dist. Adilabad – show names of Noorsingh S/o Jemla (father of appellant) and Lalitha W/o Noorsingh (mother of appellant) at Sl.Nos.202 and 203 under H.No.1-81.
- viii) Agency Certificate bearing Rc.No.C/748/2015, dt.11.8.2015 issued by Tahsildar, Indervelly Mandal, certifying that Kumari Rathod Shilpa D/o Noor Singh (DoB 12-06-1992) belonging to ST Sub-Caste "Lambadis" Tribe has been residing in Dhanora-K of Indervelly Mandal and that his father resided at Dhanora-K village of Indervelly Mandal from 195 to till day resided at Dhanora K Mandal Indervelly which fall within the scheduled area since 26.1.1950.
- ix) Agency Area Local ST Certificate as prescribed under G.O. Ms.No24, TW (LTR) Department, dt.12.6.2018 – bearing Rc.No.C/432/2018, dt.11.10.2018 issued by Tahsildar, Indervelly Mandal – certifying that Rathod Shilpa daughter of Sri Rathod Noorsingh belongs to ST Lambadies and that her parents/grandparents have been continuously residing at Dhanora-K village of Indervelly Mandal of Adilabad District since 26.01.1950 which is a notified scheduled village as per Scheduled Areas (Part-B States) Order, 1950.
- x) Village elders declaration dt.2.10.2018 – 1) Kanaka Tukaram, aged 51 years, 2) Durgam Posanna, 86 years and 3) Abdul Shami, aged 70 years – they stated that the family of Sri Rathod Noorsingh S/o Jemla belong to ST community and residing at Sankarguda H/o Dhanora, Indervelly Mandal previously i.e. from before 1950 lived in Ginnera thanda seeking out their livelihood by doing cooli work and in the year 1981 migrated to Sankarguda H/o Dhanora for livelihood. They do not have any patta land or Government land and their names were recorded in 241 Boath Assembly Constituency for the year 1977 – Part No.157 – Sl.Nos.3237 under H.No.3-69.

6. Vide reference 4th read above, the District Collector, Adilabad has been requested to submit original record pertaining to the case along with para-wise remarks.

7. Accordingly, vide reference 5th read above, the PO, ITDA, Utnoor, Adilabad District has submitted original record of the case along with para-wise remarks.

8. Vide reference 6th read above, a Notice has been issued to the Appellant to attend for hearing on 05.09.2020 at 11.00 AM before the Government to prove her claim along with documentary evidences. Accordingly, the Appellant has attended for hearing on 05.09.2020, and submitted the following documents additionally.

- i) Copy of representation dt.12.07.2015 addressed to the Tahsildar, Indervelly Mandal – by the villagers of Ginnerathanda, Mandal: Indervelly – stating that Sri Rathod Kapurya S/o Megya and Rathod Jemla S/o Megya are two brothers; they lived in their year from

before 1950. They used to eke out their livelihood by doing agriculture labour, cattle grazing and they do not have any agriculture land. In the year about 1982, they left their village. The names of Kapurya and Jemla were recorded in 1977 Voter list under Part No.157 at Sl.Nos.3235, 327 and in the subsequent voter lists their names with names of their sons were also recorded. Sri Rathod Megya S/o Megya settled in Sankarguda H/o Dhanora-K village of Indervelly Mandal. Sri Rathod Jemla has seven children (5 sons and 2 daughters). Therefore, the villagers have requested for issue of Agency Area Certificates to the children of Rathod Noorsingh as they have been living in the agency village from before 1950. The family tree is also shown in the next page – as follows:

- Sri Rathod Megya S/o Balu is great grandfather of appellant. He has two sons viz., 1) Kapur and 2) Jemla (grandfather of appellant).
- Rathod Jemla (grandfather of appellant) has five sons viz., 1) Rathod Noorsingh (father of appellant) 2) Kishan 3) Ramesh 4) Ganesh and 5) Dinesh.
- Rathod Noorsingh (father of appellant) has 3 children viz., 1) Shilpa (daughter and appellant) 2) Raju and 3) Sandeep.

The above family lived in Ginnerathanda village from before 1950 to 1982. This family tree was witnessed by 1) Ade Siram S/o Mangya 2) Rathod Dhavuji S/o Lalsingh 3) Jadhav Devula S/o Nilya 4) Rathod Tukaramnaik S/o Roopchand 5) Rathod Pasuram Naik S/o Rama – attested by Sarpanch, G.P.Ginnera – true copy attested by Dy.Tahsildar, Indervelly.

- ii) Resolution by villagers of Bhikkuthanda (Ginnerathanda) dt.6.9.2020 signed by Sarpanch, G.P.Bikkutanda, Mandal: Indervelly, District Adilabad.

They stated that family of Sri Rathod Kapurya S/o Megya and Sri Rathod Jemla S/o Megya lived in their village and they do not have any fixed assets. The family lived eking out their livelihood by doing agriculture labour, cattle grazing etc. They lived in the village from before 1950 to 1982. After 1982 year, Sri Rathod Jemla S/o Megya and Sri Rathod Kapurya S/o Megya along with their children migrated to Sankarguda of Dhanora-K village and settled. Therefore, they resolved that Sri Rathod Noorsingh S/o Jemla and their ancestors lived in their village Bhikkuthada (Ginnerathanda) from 1950 to 1982.

- iii) Resolution by village elders of Bhikkuthanda (Ginnerathanda) dt.06.09.2020 attested by Sarpanch, G.P.Bikkutanda, Mandal: Indervelly – Dist. Adilabad - they stated that the families of Rathod Kapurya S/o Megya and Rathod Jemla S/o Megya lived in their village. Their names were recorded in the voter lists after 1950. Their names were recorded in the voter list of 1965, 1971, 1977. They do not have any fixed assets in their village – therefore, they used to eke out their livelihood by doing agriculture labour, cattle grazing etc. They lived in the village from before 1950 to 1982 and

after 1982 they migrated to Sankarguda H/o Dhanora-K village and settled there. Therefore, they have declared that Sri Rathod Noorsingh S/o Jemla and their ancestors lived in Bhikkuthanda (Ginnerathanda) of Indervelly Mandal from before 1950 to 1982.

- iv) Representation dtd.7.9.2020 addressed by the Sarpanch and villagers of GP Bikkutanda, Mandal: Indervelly, Dist. Adilabad to the Tahsildar, Indervelly requesting to issue Agency Area Certificates to the sons and daughters of Sri Rathod Noorsingh S/o Jemla in view of their continuous living in the agency villages of Ginnerathanda (now called as Bikkutanda) and in Sankarguda H/o Dhanora-K village of Indervelly Mandal from before 1950 to till date.

9. Verified above the documentary evidences i.e. voter lists from the year 1965, village elders declaration, genealogy confirmed by the village elders, attested by Sarapanch GP Bikkutanda, confirmed by the revenue officials while issuing Agency Area Certificates issued by the Tahsildar, Indervelly Mandal on 11.8.2015 and on 11.10.2018, it is established that the family of the appellant and her forefathers have been continuously living in the agency area from before 26.1.1950 in the villages of Ginnerathanda and Bikkutanda of Indervelly Mandal.

10. Government after careful examination of the documents available on record, documents submitted by the Appellant along with the appeal petition, during the hearing on 5.9.2020 and also in the light of the interim orders of the Hon'ble High Court of Judicature at Hyderabad for the State of Telangana and the State of Andhra Pradesh in interim orders passed in IA No.1 of 2018 in WP No.31426 of 2018, dated 5.9.2018 and in IA No.1 of 2018 in WP No.32413 of 2018, it is found that the appellant Rathod Shilpa D/o Noorsingh R/o Dhanora-K village and her fore-fathers have been continuously living in the agency villages i.e. Ginnerathanda and Bikkutanda (Dhanora-K) of Indervelly Mandal from before 1950 and therefore, she is to be treated as Agency Area Local ST candidate.

11. Accordingly, Government hereby set aside orders of the Collector & District Magistrate, Adilabad District in Procgs.Rc.No.C3/2596/2019-15, dated 31.01.2020 and allow the Appeal petition filed by the appellant Rathod Shilpa D/o Noorsingh R/o Dhanora-K village of Indervelly Mandal of Adilabad District, declaring her as a Agency Area Local ST of Shankerguda H/o. Dhanora-K village of Indervelly Mandal and also and also treating the LSTAC issued by the Tahsildar, Indervelly Mandal bearing Rc.No.C/432/2018, dt.11.10.2018 to her, as valid.

12. The Collector & District Magistrate, Adilabad District shall take further necessary action accordingly.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF TELANGANA)

**Dr. CHRISTINA Z.CHONGTHU
SECRETARY TO GOVERNMENT**

To
The Collector & District Magistrate, Adilabad District.
Rathod Shilpa D/o Noorsingh R/o Dhanora-K village of Indervelly Mandal of Adilabad District.

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Copy to:

1. The Secretary, Telangana State Public Service Commission, Hyderabad (for information & necessary action)
2. The Project Officer, ITDA Utnoor, Adilabad District (for information & necessary action)
3. The District Educational Officer, Adilabad (for information & necessary action)
4. The PS to Hon'ble Minister for ST Welfare for information.
5. The PS to Secretary to Govt. (TW)
6. The PS to Special Secretary to Govt. (TW)
SF/SC.

//FORWARDED :: BY ORDER//

SECTION OFFICER